

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

EPAC TECHNOLOGIES, INC.,

Plaintiff/Counter-Defendant,

v.

HARPERCOLLINS CHRISTIAN  
PUBLISHING, INC., f/k/a THOMAS  
NELSON, INC.,

Defendant/Counter-Plaintiff.

Case No. 3:12-cv-00463

Chief Judge Crenshaw  
Magistrate Judge Newbern

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**AMENDED ORDER**

The Court's prior order (Doc. No. 993) is AMENDED to include the underlined language that follows:

On December 29, 2018, counsel for Thomas Nelson provided the following status update by email copied to all parties regarding its execution of the Court's December 28, 2018 order (Doc. No. 987):

We write to provide an update on Thomas Nelson's privilege logging. Our team of approximately 40 attorneys is reviewing the relevant document set and logging those documents that are privileged in accordance with the Court's Order at Doc. 987, and the log will be submitted on time. However, the vendor selected by EPAC has informed us that it cannot process documents for production more quickly than 48 hours from completion of our review if the pages are to have a Bates label on them or more quickly than 24 hours if the documents are produced in native format (e.g., Microsoft .msg files), with the "Bates label" appearing only as the name of the file. As a result, last night we directed the vendor to proceed with processing in native format a grouping of approximately 10,000 documents that will be significantly over-inclusive of the documents that will ultimately be on the log. We expect to be able to provide that grouping to you by 9:00 a.m. tomorrow along with the log. Alternatively, we could direct the vendor to provide a document set that includes only the documents in question by Tuesday at 9:00 a.m., based on Consilio's projected processing time requirements after our privilege review and

logging is complete. That would be the same time as when EPAC is to serve its objections to any of the logged items.

We would appreciate your direction on whether you wish to receive the over-inclusive set in native format tomorrow morning or the set corresponding to the logging with Bates labels on pages of the documents on Tuesday morning.


Thomas Nelson has confirmed that it will produce its privilege log to EPAC and to the Court by 9:00 a.m. on December 30, 2018, under either scenario. Any claim of privilege not asserted by that time may be deemed waived, except as otherwise provided by the inadvertent disclosure provisions of Federal Rule of Civil Procedure 26, Federal Rule of Evidence 502, this Court's Local Rules and Administrative Orders, the parties' joint protective order, and other controlling legal authority.

Reviewing an over-inclusive set of documents produced in native format would not be an efficient use of judicial resources. Accordingly, to facilitate the Court's consideration of any objections to the privilege log that may be raised, the Court AMENDS its prior order as follows (Doc. No. 987):

Thomas Nelson shall provide to the Court for its *in camera* review an electronic copy of all documents included in the privilege log identified by corresponding Bates number on the document by no later than 9:00 a.m. on January 1, 2019.

All other deadlines remain as set by the December 28, 2018 order.

It is so ORDERED.

  
ALISTAIR E. NEWBERN  
United States Magistrate Judge